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Travis, Eugene Mabbett

Tax on investments

[Albany, N.Y.]

1918

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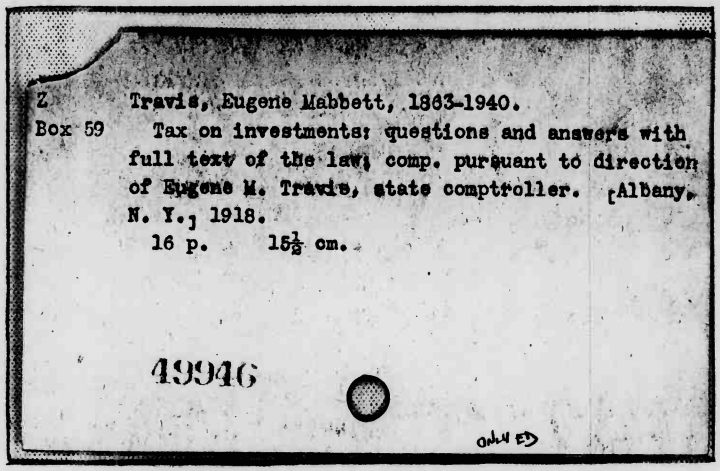
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TAX ON INVESTMENTS

QUESTIONS AND ANSWERS

WITH

FULL TEXT OF THE LAW

COMPILED PURSUANT TO DIRECTION OF

EUGENE M. TRAVIS

STATE COMPTROLLER

1918

A BRIEF CHRONOLOGY OF THE TAX LAWS ON SECURED DEBTS AND INVESTMENTS

The original Tax on Secured Debts Law was enacted by chapter 802 of the Laws of 1911 which took effect September 1 of that year. It provided that any person might take or send to the office of the Comptroller of this State any secured debt or a description thereof and pay to the State a tax of one-half per centum on the face value thereof and such secured debt would thereafter be exempt from all taxation in the State after the receipt of the tax. The period of such exemption under that act is construed as the life of the investment on which the tax is paid.

The law was amended by chapter 169 of the Laws of 1915, effective April 1, of that year, providing that after the first day of May, 1915, the tax might be paid. This act operated as a practical suspension of the law during the month of April, 1915, but did not impair the exemption where the tax had previously been paid.

This was followed by the enactment of chapter 465 of the Laws of 1915, effective April 30, of that year, which provided that after the first day of May, 1915, and before the first day of November, 1915, a tax of three-quarters of one per centum on the face value of the secured debt might be paid to the State and on receipt of the tax by the Comptroller, such secured debt should thereafter be exempt from all taxation in the State for a period of five years from the date of payment of such tax.

Next came the enactment of chapter 261 of the Laws of 1916, effective April 21, of

that year, providing for a tax payable before the first day of January, 1917, of seventy-five cents on each one hundred dollars or fraction thereof of the face value of such secured debt which should thereafter be exempt from all taxation in the State for a period of five years from the payment of the tax.

The present Tax on Investments Law was enacted by chapter 700 of the Laws of 1917, effective June 1 of that year. It provides for the payment of a tax to the State at the rate of twenty cents per year on each one hundred dollars or fraction thereof of the face value of such investment for one year or more not exceeding five, and all such investments shall thereafter be exempt from all taxation in the State for a period of years from the payment of such tax, for which such tax shall have been paid and stamps affixed. This law also provides for the exemption of certain secured debts on which the tax has been paid under the former laws, i. e.—

(a) If a tax shall have been paid on a secured debt prior to May 1, 1915, or prior to April 1, 1917, under article eleven of the Tax Law (recording tax on mortgages), such debt shall be exempt from taxation hereunder;

(b) If a tax shall have been paid upon a secured debt between May 1, 1915, and December 31, 1916, such secured debt shall be exempt from taxation hereunder for a period of five years from the date of payment of such tax.

The exemption from other taxation on payment of the secured debt or investment tax is stated in the answer to question No. 30 herein.

Any further information may be obtained by addressing the Comptroller of the State of New York at Albany or New York City.

Eugene McTravis

Comptroller.

Albany, N. Y., May 15, 1918.

QUESTIONS AND ANSWERS

1. Q. *What is the "Tax on Investments" Law?*
   A. It provides for the payment of a personal property tax on certain investments.
2. Q. *When did the present law take effect?*
   A. June 1, 1917.
3. Q. *What are "investments" as defined by this law?*
   A. "Any bond, note, debt, debenture, equipment bond or note, written or printed obligation forming part of a series of similar bonds, notes, debts, debentures, written or printed obligations which by their terms are payable one year or more from date of issue and which are either secured by a mortgage, pledge, deposit, or deed of trust, of real or personal property or which are not secured at all." (Tax Law, sec. 330.)
4. Q. *Are all such investments taxable under this law?*
   A. No, there are certain exceptions.
5. Q. *What are the exceptions?*
   A. (a) Bonds of the United States and bonds of the State of New York or any civil division of the State of New York.
   (b) Such investments which are secured by a deed of trust or mortgage recorded in the State of New York on real property situated wholly within the State of New York.
   (c) Such investments held as collateral to secure the payment of investments taxable under this article or of bonds taxable under article eleven of the Tax Law (recording tax on mortgages).
   (d) Such proportion of such investments secured by deed of trust or

mortgage recorded in the State of New York of property or properties situated partly within and partly without the State of New York as the value of that part of the mortgaged property or properties situated within the State of New York shall bear to the value of the entire mortgaged property or properties.
   (e) Such investments held for a period of not more than eight months by a holder actually engaged in the bona fide purchase and sale of investments as a business who actually maintains an office or place of business in the State of New York for the purpose of such business as distinguished from purchase for investment purposes.
6. Q. *How should the owner proceed to pay the tax upon an investment secured by a mortgage or deed of trust on properties situated both within and without the State of New York?*
   A. The owner may do either of two things, namely:
   (a) Elect to waive the determination of apportionment and pay the tax on the face value of the investment (Tax Law, section 340), or
   (b) Apply to the comptroller for a determination of the proportion taxable as an investment. If such an application be presented, the comptroller will require the applicant to furnish the information and data called for by the rules and regulations in relation thereto, which information and data shall be sufficient to enable the comptroller to determine the proportionate values of the property within and without the State.

7. *Q. What is the rate of the tax?*
   A. The rate is twenty cents a year on each one hundred dollars or fraction thereof of the face value of the investment.
8. *Q. May the tax be paid on the market value of the investment?*
   A. No. Upon the face value only.
9. *Q. Where and to whom may the tax be paid?*
   A. To the Comptroller of the State of New York at his office in Albany (Telephone Building) or in New York City (Woolworth Building) on any business day between the hours of 9 and 4, except on Saturday when the offices are closed at 12 o'clock; or the tax may be paid to an authorized traveling agent of the Comptroller.
10. *Q. How may the tax be paid?*
    A. By taking or sending to the office of the Comptroller or to his authorized agent any investment (as defined in answer to Nos. 3 and 5) and having affixed thereto and canceled stamps as evidence of payment of the tax.
11. *Q. How may the services of the Comptroller's authorized agent be secured locally for the collection of taxes without the necessity of sending the physical investments to the Comptroller's office for this purpose?*
    A. The Comptroller will designate an authorized agent to visit any locality in the State for the purpose of receiving the investment tax when it is demonstrated that the volume of investments in that locality, upon which it is desired to pay the tax, warrants the expense of sending one. Notice of the presence of the agent

to receive the taxes will be published in the local papers and by special notice to bankers, known investors, and other persons who have made previous inquiries in reference to the tax. The agent in such cases usually makes his office with the county treasurer if at a county seat or with the Comptroller's local attorney, or otherwise at some local bank, as specified in the notice.

12. *Q. For what period may the tax be paid?*
    A. One, two, three, four or five years.
13. *Q. What provision is made for the taxation of foreign investments?*
    A. Any investment expressed in terms of foreign currency will be reduced to the equivalent face value in United States money.
14. *Q. What form and procedure is necessary for the payment of the tax?*
    A. An application in the form furnished by the Comptroller must be made out by the investor in which the investments are listed and described. If it is desired to pay the tax for different periods, as for instance on one investment for one year and another investment for two years, a separate application must be made out covering the investments on which the taxes are to be paid for the different periods. The Comptroller retains and files in his office the application and description. The investments are returned to the investor duly stamped as evidence of payment of the tax.
15. *Q. When investments are sent or presented to the Comptroller or his authorized agent for payment of the tax, must application and the amount of tax accompany the investment?*
    A. Yes.

16. *Q. What evidence does the investor get of the payment of the tax?*

A. Stamps are affixed to the investment by the Comptroller or his authorized agent, dated as of the date of payment of the tax and canceled. This constitutes a receipt for the payment of tax as indicated by the amount or denomination of the stamps for the period beginning with the date of their cancellation. The form or design of the stamps is also an indication of the period for which the tax is paid.

17. *Q. What are the various forms of the stamps?*

A. For one year, circular; two years, octagon; three years, keystone; four years, shield; five years, square.

18. *Q. What form of dating stamp is used for cancellation of the stamps?*

A. "Tax exempt for — years" with date according to the time for which the tax is paid and form of stamp used.

19. *Q. Has any other form of cancellation stamp been used?*

A. Yes, two other forms.

20. *Q. What were these?*

A. Prior to May 1, 1915, the year of payment of the tax only was stamped upon the stamps. Investments thus stamped are exempt from further investment tax for the life of the investment. From May 1, 1915, to December 31, 1916, a form was used circular in shape with the words "Tax exempt for five years" with date of cancellation, from which date the investments were exempt from further taxation for five years.

21. *Q. To whom should checks be made payable?*

A. To the Comptroller of the State of New York.

22. *Q. What form of payment is acceptable?*

A. Bank drafts, cashier's checks, certified checks, postoffice orders, express money orders and United States currency.

23. *Q. What is the best means of sending investments to the Comptroller if they cannot be brought personally?*

A. Either registered mail or express is recommended and in case of negotiable securities, they should be insured, all charges prepaid.

24. *Q. How are the investments returned?*

A. In the same way and insured as to negotiable securities, charges prepaid by Comptroller.

25. *Q. Is the payment of the investment tax compulsory?*

A. No.

26. *Q. How many and what advantages accrue from the payment of the tax?*

A. Two, as follows:

(1) If a secured debt tax, a personal property tax or the investment tax shall not have been paid for a period including the date of the death of the decedent owner thereof, an additional inheritance or transfer tax of five per centum of the appraised inventory value of the investment is assessed and collected. Stated differently, if the appraised value is the same as the face value, an additional inheritance tax of fifty dollars ($50) per thousand — a sum sufficient to pay the investment tax for twenty-five years — is imposed.

(2) If the investment tax be not paid and the owner is assessed locally as the owner of personal property by reason of his ownership of such investments, he cannot claim

a reduction in his assessment on account of "just debts" as provided in section 6 of the Tax Law.

27. *Q. In case of payment of the tax on interim investments issued temporarily awaiting the issue of the permanent investments, can the tax be transferred to the permanent investments when issued?*
    A. Yes.
28. *Q. Does this also apply to registered bonds when transferred from one owner to another?*
    A. Yes.
29. *Q. What is the procedure in such cases?*
    A. The holder of the investment or his authorized agent will be required to fill out a form known as "Form B" showing date of payment of the secured debt or investment tax; that the original investment was destroyed or canceled; that the old stamps were actually destroyed; that the new investment does not differ in terms or conditions from the one it replaces; a description of the new investment; name and address of owner or his agent; affidavit of owner or authorized agent must also be made, on the back of the form, of destruction or cancellation of the original investment. Upon receipt of this information and presentation of the new investment, stamps will be affixed and cancelled as of the date of the original stamps, without charge.

30. *Q. If the investment tax be paid, is the investment exempt from all further taxation?*
    A. Yes, with certain exceptions as follows:
    It is not exempt from (a) the tax on shares of bank stock, (b) the franchise tax on insurance corporations, (c) the franchise tax on trust companies, (d) the tax on investment company corporations, (e) the franchise tax on savings banks, (f) the transfer or inheritance tax and (g) the tax on transfers of stock.
31. *Q. Is it necessary to give name of owner of investment?*
    A. No, application may be made and tax paid by agent.
32. *Q. How may blanks for application to pay the tax be obtained?*
    A. By application, either written or personally, to the State Comptroller or his authorized agents.

LAW OF THE TAX ON INVESTMENTS

Chap. 700, Laws of 1917.

AN ACT to amend the tax law, in relation to the tax on investments and transfers.

Section 1. Article fifteen of chapter sixty-two of the laws of nineteen hundred and nine, entitled "An act in relation to taxation, constituting chapter sixty of the consolidated laws," as added by chapter two hundred and sixty-one of the laws of nineteen hundred and sixteen, is hereby amended to read as follows:

ARTICLE 15.

Tax on Investments.

Sec. 330. Definitions.
331. Payment of tax on investments.
332. Stamps; how prepared and used.
333. No exemption unless stamps are affixed and canceled.
334. Contracts for dies; New York city office; expenses, how paid.
335. Illegal use of stamps; penalty.
336. No deduction of debts against taxable investment.
337. Application of taxes.
338. Exemption where tax has been paid on secured debts before May first, nineteen hundred and fifteen.
339. Exemption where tax has been paid on secured debts between May first, nineteen hundred and fifteen and December thirty-first, nineteen hundred and sixteen.
340. Apportionment of value of investment secured by mortgage of property situate partly within and partly without the state.

§ 330. **Definitions.** The word "investments," as used in this article, shall include: Any bond, note, debt, debenture, equipment bond or note, or written or printed obligation, forming part of a series of similar bonds, notes, debts, debentures, written or printed obligations, which by their terms are payable one year or more from their date of issue and which are either secured by a mortgage, pledge, deposit, or deed of trust, of real or personal property, or both, or which are not secured at all; excepting bonds of this state or any civil division thereof and such bonds, notes, debts, debentures, written or printed obligations, which are secured by a deed of trust or mortgage recorded in the state of New York on real property situated wholly within the state of New York; excepting also such bonds, notes, debts, debentures, written or printed obligations held as collateral to secure the payment of investments taxable under this article or of bonds taxable under article eleven of this chapter; and excepting also such proportion of a bond, note, debt, debenture or written or printed obligation, secured by deed of trust or mortgage recorded in the state of New York of property or properties situated partly within and partly without the state of New York as the value of that part of the mortgaged property or properties situated within

the state of New York shall bear to the value of the entire mortgaged property or properties.

§ 331. **Payment of tax on investments.** After this article takes effect, any person may take or send to the office of the comptroller of this state any investment, and may pay to the state a tax at the rate of twenty cents per year on each one hundred dollars or fraction thereof of the face value of such investment for one or more years not exceeding five, under such regulations as the comptroller may prescribe, and the comptroller shall thereupon affix stamps hereinafter provided for, to such investment, which stamps shall be duly signed by the comptroller or his duly authorized representative and dated as of the date of the payment of such tax. The comptroller shall keep a record of such investment together with the name and address of the person presenting the same and the date of payment of the tax.

All such investments shall thereafter be exempt from all taxation in the state or any of the municipalities or local divisions of the state except as provided in sections twenty-four to twenty-four-g, both inclusive, one hundred and eighty-seven, one hundred and eighty-eight and one hundred and eighty-nine of this chapter, and in articles ten and twelve of this chapter, for the period of years from the payment of such tax for which such tax shall have been paid and such stamps affixed.

§ 332. **Stamps; how prepared and used.** Adhesive stamps for the purpose of indicating the payment of the tax provided for by this article shall be prepared by the comptroller, in such forms and of such denominations and in such quantities as he may from time to time prescribe. Upon the payment of the tax provided by this article upon any investment the comptroller shall affix stamps of the proper denominations, equal in face value to the amount of tax paid, to the investment, and shall cancel the same by the seal of his office or by such other canceling device as he may prescribe. Upon proof of the surrender and cancellation or other destruction of any instrument or instruments, whether temporary or permanent, evidencing any investment upon which the investment tax shall have been paid hereunder or any secured debt upon which the secured debt tax shall have been paid pursuant to former article fifteen of the tax law, and of the issuance in lieu thereof of a new instrument or instruments evidencing the same investment or secured debt, whether in coupon or registered form, or of the same or different denomination or denominations, and upon proof of the date and aggregate denomination of the stamps affixed to the surrendered or destroyed instrument or instruments or to the receipt for the tax thereon, the comptroller shall affix stamps of like aggregate denomination, to be dated as of like date, to the instrument or instruments issued in lieu thereof, which stamps shall be duly signed and canceled as hereinbefore provided.*

§ 333. **No exemption unless stamps are affixed and canceled.** The payment of the tax upon any investment, as provided in this article, shall not exempt such investment from taxation, as provided in section three hundred

* Section 332 as amended Aug. 27, 1917.

and thirty-one, unless stamps to the proper amount are affixed and canceled, as provided in the preceding section.

§ 334. **Contract for dies; New York city office; expenses, how paid.** The state comptroller is hereby directed to make, enter into and execute for and in behalf of the state such contract or contracts for dies, plates and printing necessary for the manufacture of the stamps provided for by this article, and provide such stationery and clerk hire, together with such books and blanks as in his discretion may be necessary for putting into operation the provisions of this article; he shall be the custodian of all stamps, dies, plates or other material or thing furnished by him and used in the manufacture of such state tax stamps. In addition to the receipt of taxes payable as provided in this article at his office in the city of Albany, the comptroller shall maintain an office for the receipt of such taxes in the city of New York. He shall appoint, and may at pleasure remove, such assistants, clerks and other persons as may be necessary to carry out the provisions of this article and shall fix and determine their salaries. All expenses incurred by him and under his direction in carrying out the provisions of this article shall be paid to him by the state treasurer from any moneys appropriated for such purpose.

§ 335. **Illegal use of stamps; penalty.** Any person who shall wilfully remove or cause to be removed, alter or cause to be altered the canceling or defacing marks of any adhesive stamp provided for by this article with intent to use the same, or to cause the use of the same after it shall have been used, or shall knowingly or wilfully sell or buy any washed or restored stamp, or offer the same for sale, or give or expose the same to any person for use, or knowingly use the same or prepare the same with intent for the further use thereof, or shall wilfully use any counterfeit stamp or any forged stamp with intent to defraud the state of New York, shall be guilty of a misdemeanor and on conviction thereof shall be liable to a fine of not less than five hundred nor more than one thousand dollars, or be imprisoned for not more than six months, or by both such fine and imprisonment at the discretion of the court.

§ 336. **No deduction of debts against taxable investment.** The owner of any investment, on which the tax provided for in this article has not been paid, shall be assessed upon such investment in the taxing district in which he resides, upon the fair market value of such investment and no deduction for the just debts owing by him shall be allowed against the assessed value of such investment, as provided in section six of this chapter or elsewhere in this chapter or in any other law of this state except that the deduction from the taxable property permitted by section six of this chapter shall be allowed to any person, in respect of any investment which for the purpose of his business, as hereinafter described and not for or as an investment, shall be temporarily owned and held for sale by such person then actually engaged in the bona fide purchase and sale of such investments as a business, and who then shall have and maintain an office or place of business in this state for the carrying on of the actual bona fide business of purchasing and selling such investments as distinguished from the purchase thereof for

investment, but such deduction shall not be allowed in respect of investments owned and held for a longer period than eight months.

§ 337. **Application of taxes.** The taxes imposed under this article and the revenues thereof shall be paid by the state comptroller into the state treasury and be applicable to the general fund, and to the payment of all claims and demands which are a lawful charge thereon.

§ 338. **Exemption where tax has been paid on secured debts before May first, nineteen hundred and fifteen.** If a tax shall have been paid upon a secured debt pursuant to former article fifteen of the tax law prior to May first, nineteen hundred and fifteen, or prior to April first, nineteen hundred and seventeen, under article eleven of this chapter, such debt shall be exempt from taxation hereunder and from all taxation in the state or any of the municipalities or local divisions of the state, except as provided in sections twenty-four to twenty-four-g, both inclusive, one hundred and eighty-seven, one hundred and eighty-eight and one hundred and eighty-nine of this chapter and in articles ten and twelve of this chapter.

§ 339. **Exemption where tax has been paid on secured debts between May first, nineteen hundred and fifteen and December thirty-first, nineteen hundred and sixteen.** If a tax shall have been paid upon a secured debt pursuant to former article fifteen of the tax law, between May first, nineteen hundred and fifteen, and December thirty-first, nineteen hundred and sixteen, such secured debt shall be exempt from taxation hereunder, and from all taxation in the state or any of the municipalities or local divisions of the state, for the period of five years from the date of the payment of such tax, except as provided in sections twenty-four to twenty-four-g, both inclusive, one hundred and eighty-seven, one hundred and eighty-eight and one hundred and eighty-nine, of this chapter, and in articles ten and twelve of this chapter.

§ 340. **Apportionment of value of investment secured by mortgage of property situated partly within and partly without the state.** If a bond, note, debt, debenture, equipment bond or note, or written or printed obligation be secured by mortgage or deed of trust recorded in the state of New York of property or properties, situated partly within and partly without the state of New York, and a proportion of such bond, note, debt, debenture, equipment bond or note, or written or printed obligation constitutes an investment as provided by section three hundred and thirty, the holder of such investment may apply to the comptroller for a determination of the proportion of such bond, note, debt, debenture, equipment bond or note, or written or printed obligation which is taxable as an investment under this article, and the comptroller shall, as soon as practicable thereafter, furnish to such applicant a determination upon which the tax imposed by this article on such investment shall be based, which determination shall be in the manner provided for in section two hundred and sixty of this chapter made in respect of the apportionment of the value of such mortgaged property in connection with the recording within the state of New York of the mortgage or other indenture by which such investment may be secured; or may waive such determination and pay the

tax upon the full amount of such investment, and thereafter the whole amount of such investment shall be exempt from taxation under the provisions of section three hundred and thirty-one of this chapter.

§ 2. Section two hundred and twenty-one-b of such chapter, as added by chapter six hundred and thirty-nine of the laws of nineteen hundred and thirteen, is hereby renumbered section two hundred and twenty-one-c, and a new section two hundred and twenty-one-b inserted to read as follows:

§ 221-b. **Additional tax on investments in certain cases.** Upon every transfer of an investment, as defined in article fifteen of this chapter, taxable under this article, a tax is hereby imposed, in addition to the tax imposed by section two hundred and twenty-one-a, of five per centum of the appraised inventory value of such investment, unless the tax on such investment as prescribed by article fifteen of this chapter or the tax on a secured debt as defined by former article fifteen of this chapter shall have been paid on such investment or secured debt and stamps affixed for a period including the date of the death of the decedent or unless the personal representatives of decedent are able to prove that a personal poperty* tax was assessed and paid on such investment or secured debt during the period it was held by decedent; or unless the decedent was actually engaged in the bona fide purchase and sale of investments as a business, and at the time of his death had maintained an office or place of business in this state for the carrying on of the actual bona fide business of purchasing and selling investments, as distinguished from the purchase thereof for investment purposes, and had owned and held such investment for sale for the purpose of his business and not as investment for a period of not more than eight months prior to his death.

§ 3. Section one of this act shall take effect immediately. Section two of this act shall take effect July first, nineteen hundred and seventeen.

* So in original.

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END OF
TITLE